

United States Postal Service

§ 954.16

§ 954.13 Appearances.

(a) The General Counsel of the Postal Service or a member of his or her staff designated by him or her shall represent the authorized official.

(b) A publisher or intervenor may appear and be heard in person or by attorney. Attorneys may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See part 951 of this chapter.

(c) An attorney representing a publisher or intervenor shall file a written authorization from the publisher or intervenor before he or she may participate in the proceeding. The publisher or intervenor must promptly file a notice of change of attorneys.

(d) When a publisher or intervenor is represented by an authorized attorney all subsequent pleadings shall be served upon the attorney.

[36 FR 11567, June 16, 1971, as amended at 62 FR 66998, Dec. 23, 1997]

§ 954.14 Presiding officers.

(a) The Chief Administrative Law Judge shall assign each case to an Administrative Law Judge qualified in accordance with law to preside over the hearing. Such assignments shall be made, so far as practical, in rotation.

(b) The presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon matters of evidence and procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (6) Require the filing of briefs on any matter upon which he or she is required to rule;
- (7) Order prehearing conferences for the settlement or simplification of issues by consent of the parties;
- (8) Order the proceeding reopened at any time prior to his or her decision for the receipt of additional evidence;
- (9) Render an initial decision.

[36 FR 11567, June 16, 1971, as amended at 38 FR 17217, June 29, 1973; 38 FR 20263, July 30, 1973; 62 FR 66998, Dec. 23, 1997]

§ 954.15 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings and (b) to render a final Postal Service Decision for the Postmaster General. On appeal from an Initial Decision of an Administrative Law Judge, the Judicial Officer will consider the entire record including the initial decision and the exceptions to that decision. Before any final agency decision has been rendered, the Judicial Officer may order the hearing reopened for the presiding officer to take additional evidence.

§ 954.16 Procedure.

(a) *Evidence.* The general rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States apply. The rules may be relaxed to the extent that the presiding officer may deem proper to insure an adequate and fair hearing. The presiding officer may exclude irrelevant or repetitious evidence.

(b) *Subpoenas.* The Postal Service is not authorized to issue subpoenas.

(c) *Fees.* The Postal Service does not pay fees and expenses for witnesses of, or depositions requested by, the publisher or intervenor.

(d) *Depositions.* Depositions may be taken as follows:

(1) Not later than 5 days after the filing of the authorized officials's answer, any party may file application with the presiding officer for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(2) If the application is granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.